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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,170	05/24/2007	Guillermo Mor	YALE-106/00US 306577-2149	3804
58249 7590 03/18/2009 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			EXAMINER YAEN, CHRISTOPHER H	
			ART UNIT 1643	PAPER NUMBER
			MAIL DATE 03/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,170	Applicant(s) MOR, GUILLERMO	
	Examiner CHRISTOPHER H. YAEN	Art Unit 1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/22/09, 11/30/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-11 are pending and examined on the merits.
2. The Information Disclosure Statements filed on 5/22/06 and 11/30/2007 are acknowledged and considered. Signed copies of the IDS are attached hereto.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cuello *et al* (Gynecol Oncol. 2001 Jun;81(3):380-90). Cuello *et al* teach the detection of caspase 3 activity after the contacting of an ovarian cell with various chemotherapeutic agents (e.g. paclitaxel and cisplatin). It is taught that the contacting of the chemotherapeutic agent is approximately 16 hours (see methods section, for example) and that each is done alone (see method section, for example). Cuello *et al* also teach that various concentrations of chemotherapeutic agents are added (see method section, for example). In the absence of evidence to the contrary, the plating of the cells at a density of $1-2 \times 10^4$ is an amount that is approximately 60-70% confluent (see method section and page 385 figure 2 for example).

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5. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ofir *et al* (Cell Death and Differentiation, 2002; 9:636-642. IDS 5/22/2006). Ofir *et al* teach the contacting of an ovarian cancer cell line and primary ovarian tumors with paclitaxel at various time points for a duration falling within the claimed range of 4-48 hours. It is taught that the determination of apoptosis was measured by caspase-3 activity.

6. Claims 1-5,7-8, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolschoten *et al* (Gynecologic Oncology 2002; 84:404-412. IDS 5/22/2006). Kolschoten *et al* taught a method of contacting ovarian cells (some derived from ascites fluid) with cisplatin and measuring the caspase -3 activity. The activity was measured at various time points after the exposure of the cells to cisplatin (see pg 405, for example). In the absence of evidence to the contrary, the plating of cells in the 96 well plates is assumed to be at a density of approximately 60-70% confluency.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER H. YAEN whose telephone number is (571)272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher H Yaen/
Primary Examiner, Art Unit 1643